

Senate File 2291 - Introduced

SENATE FILE 2291
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 3135)

A BILL FOR

1 An Act relating to special education rights and duties and
2 to the related duties and operations of the department of
3 education and local school boards.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256B.2, subsection 1, paragraph a, Code
2 Supplement 2009, is amended to read as follows:

3 a. "*Children requiring special education*" means persons under
4 twenty-one years of age, including children under five years of
5 age, who have a disability in obtaining an education because
6 of a head injury, autism, behavioral disorder, or physical,
7 mental, communication, or learning disability, as defined by
8 the rules of the department of education. If a child requiring
9 special education reaches the age of twenty-one during an
10 academic year, the child may elect to receive special education
11 services until the end of the academic year.

12 Sec. 2. Section 256B.6, Code 2009, is amended to read as
13 follows:

14 **256B.6 Parent's or guardian's duties — review.**

15 1. When the school district or area education agency has
16 provided special education services and programs as provided
17 herein for any child requiring special education, either
18 by admission to a special class or by supportive services,
19 it shall be the duty of the parent or guardian to enroll
20 ~~said~~ the child for instruction in such special classes or
21 supportive services as may be established, except in the
22 event a doctor's certificate is filed with the secretary
23 of the school district showing that it is inadvisable for
24 medical reasons for the child requiring special education to
25 receive the special education provided; all the provisions
26 and conditions of chapter 299 ~~and amendments thereto~~ shall
27 be applicable to this section, and any violations shall be
28 punishable as provided in ~~said~~ chapter 299.

29 2. A child, or the parent or guardian of the child, or the
30 school district in which the child resides, may obtain a review
31 of an action or omission of ~~state or~~ local authorities pursuant
32 to the procedures established by the state board of education
33 on the ground that the child has been or is about to be:

34 ~~1-~~ a. Denied entry or continuance in a program of special
35 education appropriate to the child's condition and needs.

1 ~~2.~~ b. Placed in a special education program which is
2 inappropriate to the child's condition and needs.

3 ~~3.~~ c. Denied educational services because no suitable
4 program of education or related services is maintained.

5 ~~4.~~ d. Provided with special education which is insufficient
6 in quantity to satisfy the requirements of law.

7 ~~5.~~ e. Assigned to a program of special education when the
8 child does not have a disability.

9 3. When a child requiring special education attains the
10 age of majority or is incarcerated in an adult or juvenile,
11 state or local, correctional institution, all rights accorded
12 to the parent or guardian under this chapter transfer to the
13 child except as provided in this subsection. Any notice
14 required by this chapter shall be provided to both the child
15 who has reached the age of majority or is incarcerated in an
16 adult or juvenile, state or local, correctional institution,
17 and the parent or guardian. If rights under this chapter have
18 transferred to the child and the child has been determined
19 to be incompetent by a court or determined unable to provide
20 informed educational consent by a court or other competent
21 authority, then rights under this chapter shall be exercised by
22 the person who has been appointed to represent the educational
23 interest of the child. The director of the department of
24 education may establish standards for determining whether
25 a public agency, as defined in section 28E.2, is competent
26 to determine whether a child is unable to provide informed
27 educational consent, and the procedures by which such
28 determination shall be made and reviewed.

29 4. Notwithstanding section 17A.11, the state board of
30 education shall adopt rules for the appointment of an impartial
31 administrative law judge for special education appeals. The
32 rules shall comply with federal statutes and regulations.

33 Sec. 3. Section 256B.8, unnumbered paragraph 2, Code 2009,
34 is amended to read as follows:

35 An area education agency director of special education may

1 request approval from the department of education to continue
2 the special education program of a person beyond the ~~person's~~
3 ~~twenty-first birthday~~ period specified in section 256B.2,
4 subsection 1, paragraph "a", if the person had an accident or
5 prolonged illness that resulted in delays in the initiation of
6 or interruptions in that person's special education program.
7 Approval may be granted by the department to continue the
8 special education program of that person for up to three years
9 or until the person's twenty-fourth birthday.

10 Sec. 4. Section 256B.11, Code 2009, is amended to read as
11 follows:

12 **256B.11 Program plans.**

13 1. Program plans submitted to the department of education
14 pursuant to section 273.5 for approval by the director of the
15 department of education shall establish all of the following:

16 ~~1- a.~~ a. That there are sufficient children requiring special
17 education within the area.

18 ~~2- b.~~ b. That the service or program will be provided by the
19 most appropriate educational agency.

20 ~~3- c.~~ c. That the educational agency providing the service or
21 program has employed qualified special educational personnel.

22 ~~4- d.~~ d. That the instruction is a natural and normal
23 progression of a planned course of instruction.

24 ~~5- e.~~ e. That all revenue raised for support of special
25 education instruction and services is expended for actual
26 delivery of special education instruction or services.

27 ~~6- f.~~ f. Other factors as the state board may require.

28 2. Notwithstanding subsection 1 and section 273.5,
29 subsection 6, the director of the department of education may
30 authorize the area education agency to submit a statement
31 assuring that the requirements of subsection 1 are satisfied
32 in lieu of submitting a special education instructional and
33 support program plan.

34 Sec. 5. Section 256B.15, subsection 7, Code 2009, is amended
35 to read as follows:

1 7. The area education agencies shall transfer to
 2 the department of ~~education~~ human services an amount
 3 equal to ~~eighty-four percent~~ the nonfederal share of the
 4 payments to be received from the medical assistance program
 5 ~~provided~~ pursuant to chapter 249A. The nonfederal share
 6 amount shall be transferred to the medical assistance account
 7 prior to claims payment. This requirement does not apply to
 8 medical assistance reimbursement for services provided by an
 9 area education agency under part C of the federal Individuals
 10 With Disabilities Education Act. Funds received under this
 11 section shall not be considered or included as part of the area
 12 education agencies' budgets when calculating funds that are to
 13 be received by area education agencies during a fiscal year.

14 Sec. 6. Section 257.11, subsection 8, Code Supplement 2009,
 15 is amended to read as follows:

16 8. *Pupils ineligible.* A pupil eligible for the weighting
 17 plan provided in section 256B.9 is not eligible for
 18 supplementary weighting pursuant to this section unless it
 19 is determined that the course generating the supplemental
 20 weighting has no relationship to the pupil's disability. A
 21 pupil attending an alternative program or an at-risk pupils'
 22 program, including alternative high school programs, is not
 23 eligible for supplementary weighting under subsection 2.

24 Sec. 7. STATE MANDATE FUNDING SPECIFIED. In accordance
 25 with section 25B.2, subsection 3, the state cost of requiring
 26 compliance with any state mandate included in this Act shall
 27 be paid by a school district from state school foundation aid
 28 received by the school district under section 257.16. This
 29 specification of the payment of the state cost shall be deemed
 30 to meet all of the state funding-related requirements of
 31 section 25B.2, subsection 3, and no additional state funding
 32 shall be necessary for the full implementation of this Act
 33 by and enforcement of this Act against all affected school
 34 districts.

35 EXPLANATION

1 This bill makes Code changes related to special education
2 rights, duties, and responsibilities.

3 The bill amends Code section 256B.2 to add to the definition
4 of "children requiring special education" a provision allowing
5 such a child who reaches age 21 during an academic year to
6 elect to continue to receive special education services until
7 the academic year ends. A conforming change is made to Code
8 section 256B.8.

9 The bill also provides that when a child requiring special
10 education attains the age of majority or is incarcerated in a
11 correctional institution, the rights of the child's parent or
12 guardian transfers to the child, and any notice to that child's
13 parent or guardian must also be provided to the child. If the
14 child is determined to be incompetent, these rights shall be
15 exercised by the person appointed to represent the educational
16 interests of the child.

17 The bill authorizes the director of the department of
18 education to establish standards and procedures for determining
19 whether a public agency is competent to determine whether a
20 child is unable to provide informed educational consent, and
21 to authorize an area education agency to submit a statement
22 assuring its special education instruction and support program
23 plan meets the specific requirements established in Code
24 section 256B.11, subsection 1, rather than require the agency
25 to submit the actual plan to the department for approval.

26 The bill also directs area education agencies to transfer to
27 the department of human services, rather than the department
28 of education as provided in current law, an amount equal to
29 the nonfederal share of the payments to be received from the
30 medical assistance program, rather than 84 percent as provided
31 in current law, of payments received for medical assistance
32 services provided to children requiring special education.

33 The bill also provides that a pupil who is eligible
34 for special education weighting is not also eligible for
35 supplementary weighting unless the course generating the

1 supplementary weighting has no relationship to the pupil's
2 disability.

3 The bill may include a state mandate as defined in Code
4 section 25B.3. The bill requires that the state cost of
5 any state mandate included in the bill be paid by a school
6 district from state school foundation aid received by the
7 school district under Code section 257.16. The specification
8 is deemed to constitute state compliance with any state mandate
9 funding-related requirements of Code section 25B.2. The
10 inclusion of this specification is intended to reinstate the
11 requirement of political subdivisions to comply with any state
12 mandates included in the bill.